IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 399 OF 2006

Mallaiya Shivanand Mathpathi & Ors.. Applicants.

Versus

The State of Maharashtra. .... Respondent.

Mr. S.C.Halli for the Applicants.

Ms. M.M.Deshmukh, APP for the State.

Ms. Jyoti Pawar for the Complainant.

CORAM : V. M. KANADE, J.

DATED : 16TH FEBRUARY, 2006.

P.C.:

Heard learned Counsel for the Applicant, learned Counsel for the Complainant and the learned APP for the State.

2. The Applicants have an apprehension that they are likely to be arrested in connection with an offence which is punishable under Sections 306, 498A read with 34 of the Indian Penal Code which is registered at Kalwa Police Station, Thane.

3. Applicant No.1 married Vaishali on 17th February, 1997 at Solapur and after the marriage he and his wife started residing at Kalwa, Thane. Out of the said marriage, one daughter was born to the couple. Applicant Nos.2 to 8 are the parents and other close relatives of Applicant No.1. On 10th January, 2006 Vaishali committed suicide by hanging herself in the residential flat. Thereafter, a complaint was filed against the present Applicants.

4. Learned Counsel appearing on behalf of the Applicants submitted that so far as the Applicant Nos.2 to 8 are concerned, they were residing at Solapur and therefore were not concerned in any manner with the Applicant No.1 and his wife, who are residing at Kalwa. Learned Counsel for the Applicants further submitted that the deceased was suffering from schizophrenia and was being treated by reputed Psychiatric Dr. Ananda Nadkarni. He invited my attention to the prescription which was given by said Doctor. He submitted that the deceased was of unsound mind and this fact was suppressed from the Applicants by the Complainant. It is submitted that therefore after the death of Vaishali, various allegations were made in the Complaint regarding ill-treatment and

demand of dowry. Learned Counsel submitted that the Applicant No.1 was working as an Engineer with the M.S.E.T.C.L., and was sufficiently well placed and there was no occasion to demand any dowry or ill-treat his wife.

5. Learned APP has filed affidavit in reply and the Police Sub-Inspector attached to Kalwa Police Station has stated in his affidavit that deceased Vaishali had committed suicide on account of mental and physical cruelty meted out to her by the Applicants. In reply it is stated that on account of the harassment and ill-treatment in the hands of the Applicants, the deceased had to be given treatment by Psychiatric and that she was not insane. It is stated that the deceased had secured 89% marks in the MS-CIT Examination. She was scholar in her academic career. The Complainant also has filed affidavit in reply stating the reason why treatment had to be given to the deceased.

6. I have given anxious consideration to the submissions made by the learned Counsel for the Applicants and the learned APP and learned Counsel for the Complainant. In the present case, so far as

Applicant Nos.2 to 8 are concerned, prima facie, case has been made out for grant of anticipatory bail. From the material which is on record, it is evident that these Applicants were residing at Solapur and Applicant No.1 and his wife were residing at Kalwa. Thus there was no occasion for Applicant Nos.2 to 8 to harass the deceased or treat her in the manner which would have left no option for her but to commit suicide. There is no doubt, for some time the deceased was staying with Applicant Nos.2 to 8. However, that was not immediately prior to her death. The Applicant Nos.2 to 8, therefore, in the event of their arrest in connection with the F.I.R. which is lodged at Kalwa Police Station for the offence punishable under Sections 306, 498 r/w 34 of the Indian Penal Code vide C.R. No.13 of 2006 be released on bail in the sum of Rs.5,000/- each with one or two sureties in the like amount. The Applicant Nos.2 to 8 shall co-operate with the Investigating Officer.

7. So far as Applicant No.1 is concerned, in my view, no case is made out for grant of anticipatory bail. The contention of the learned Counsel for the Applicants that the deceased was of unsound mind cannot be accepted at this stage. Merely because the

deceased was being treated by a Psychiatric that by itself would not mean that she was either of unsound mind or was suffering from schizophrenia as alleged by the Applicants. The prescription that was given by the Doctor also does not indicate the nature of illness. It is common knowledge that a Psychiatric deals with various conditions of mind such as depression, anxiety, nervousness, etc. or similar conditions which symptoms may occur due to the stress and strain of modern life. Any normal person may also suffer from this symptoms. Therefore, merely because she was treated by a Psychiatric that by itself would not mean that she was insane.

8. Apart from that looking at the nature of the allegations which are made in the complaint, there is every possibility that the deceased may have suffered nervous disorder on account of the mental and physical harassment meted out to her by Applicant No.1. Looking to the nature of the allegations and the facts and circumstances of the case, therefore, in my view, no case is made out for grant of anticipatory bail in so far as Applicant No.1 is concerned. His application for anticipatory bail is, therefore, rejected.

9. The Application is disposed of in the above terms.

Sd/-

(V. M. KANADE, J.)